

Racial Disparities in Connecticut Marijuana Arrests
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Introduction

This report presents research and analysis of data on arrests for marijuana offenses in the state of Connecticut to contribute to an assessment as whether enforcement of the state's marijuana laws results in de jure discrimination against African-Americans. There are three basic questions addressed here.

- 1) Are there differences in the prevalence of marijuana use of blacks and whites in Connecticut?
- 2) Are there differences in the arrest rates of blacks and whites for marijuana sales and possession offenses in Connecticut?
- 3) If there are differences in the arrest rates of blacks and whites, can they be explained by differences in the prevalence of marijuana use among these populations?

Data and Method

The source for the data used on drug use in Connecticut in this report is the National Survey on Drug Use and Health (NSDUH), conducted annually by the Substance and Mental Health Services Administration (SAMSHA) of the Department of Health and Human Services. The annual data is designed to provide national estimates of drug use, including data on drug use according to various demographic criteria such as age, sex, and race.¹ SAMSHA also provides data on drug use at the state level, however because of the sample size utilized in the annual survey it requires data from two years to produce state-level estimates.² Data on drug use by race is also available from the NSDUH program, however it requires data from several more years (also due to the requirements of having a sufficient sample size to produce reliable results.) This data is obtainable through the RDAS program.³ The RDAS program is currently off-line as SAMSHA is retooling their web-based data servers. However, RDAS data for the annual use of marijuana by race in Connecticut and other states was obtained in 2014 for the years 2002 through 2009⁴.

¹ While annual data from the NSDUH is available by way of various tables and reports published by SAMSHA, the full data set is available to researchers. This is the citation for the most recent NSDUH data set.:

United States Department of Health and Human Services. Substance Abuse and Mental Health Services Administration. Center for Behavioral Health Statistics and Quality. National Survey on Drug Use and Health, 2014. ICPSR36361-v1. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2016-03-22. <https://doi.org/10.3886/ICPSR36361.v1>

² See, for example:

Population Data/NSDUH, Substance Abuse Mental Health Services Administration, <https://www.samhsa.gov/data/population-data-nsduh/reports?tab=33>

³ Data on drug use by race at the state level is available from SAMSHA by way of the RDAS program. According to SAMSHA (<https://datafiles.samhsa.gov/faq/what-are-differences-between-pdas-rdas-and-data-portal-nid16967>):

The Restricted-use Data Analysis System (RDAS) is an online tool that lets users output custom crosstabs using restricted-use NSDUH files (RUFs) that pass built-in confidentiality restraints. RDAS will be available to anyone who is willing to create a simple user account. It is similar to the publicly-accessible PDAS tool, except it is populated with restricted data, including certain geographic identifiers not available in the NSDUH PUFs [public use data files].

The RDAS has most of the variables available on the full RUF, including state identifiers. All RDAS estimates use a minimum of two years of pooled data; single-year estimates are not available using RDAS. Only the NSDUH data will be available in the initial release of RDAS.

⁴ Citation: National Survey on Drug Use and Health: 8-Year R-DAS (2002 to 2009). Analysis ran on 2014-08-01 (04:14 PM EDT) using SDA 3.5: Tables.

The source for data on arrests for marijuana offenses in Connecticut is the Uniform Crime Reporting (UCR) Program of the Federal Bureau of Investigation, Department of Justice. The UCR collects data on arrests categorized in term of both offense and demographic characteristics of the offenders.⁵ Data on the race of arrestees has been available since 1994, and the most recent data set published by the UCR program is for 2015.

The UCR data set provides data on the population of the jurisdiction of the reporting agency. Using this data arrests rates, commonly reported in terms of 'per 100,000' residents, can be calculated for offenses and areas. While the data is provided at the agency level, it can be aggregated at the county, state, and national level for comparison and analysis. However, additional data on population by race is required to calculate and compare arrests rates to assess potential racial disparities in arrests. Linking UCR data to other datasets for analytical purposes is encouraged by the Department of Justice.⁶ Data on Connecticut's population by race has been obtained from the United States Census Bureau.⁷

Using US Census data, the aggregate (total) population of the state has been broken down for each year into the total white and total black population. Arrests rates per 100,000 for each population have been calculated using this formula: (# of arrests/population) x 100,000. In addition, another metric will be used in which the percentage of a race out of all those arrested will be compared to (a) the percentage of that race in the total population of Connecticut and (b) to the percentage of that race in the total number marijuana users in the state.⁸

Marijuana Use by Race in Connecticut

Nationally, annual marijuana use has a marginally higher prevalence among blacks than among whites. From 2002⁹ to 2014, the average annual prevalence of marijuana use by blacks was 13.2% compared to

⁵ United States Department of Justice. Federal Bureau of Investigation. Uniform Crime Reporting Program Data [United States]: Arrests by Age, Sex, and Race, various years. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor]

⁶ See Lindren, Sue & Marianne Zawitz (2001) Linking Uniform Crime Reporting Data to Other Datasets, Bureau of Justice Statistics Technical Report, Washington, DC: Bureau of Justice Statistics Technical Report. NCJ 185233.

⁷ Census data has been used for the period 1994 to 2015. Here is the citation for the most recent data series utilized:

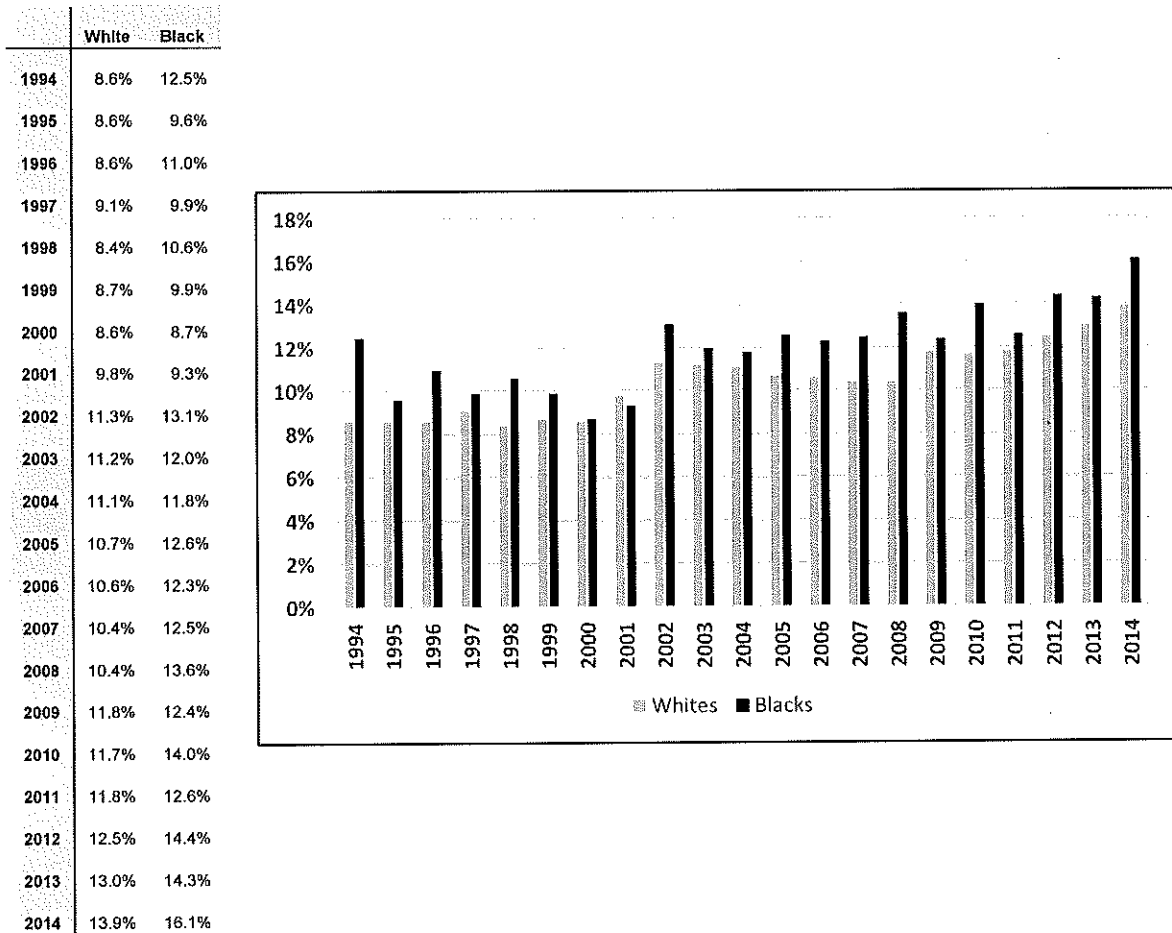
U.S. Census Bureau, Population Division (various years) CC-EST2015-ALLDATA-[ST-FIPS]: Annual County Resident Population Estimates by Age, Sex, Race, and Hispanic Origin [County Characteristics Resident Population Estimates]

⁸ This is the statistical method used by the Supreme Court to evaluate jury pools to ensure they reflect the racial composition of their communities. See *Hernandez v. Texas*, 347 U.S. 475 (1954) and *Casteneda v. Partida*, 430 U.S. 482 (1977). In *Casteneda v. Partida*, "the county population was 79% Mexican-American, but, over an 11-year period, only 39% of those summoned for grand jury service were Mexican-American" and this statistical disparity was recognized by the Court as evidence of intentional discrimination. This case is cited in this paper only as support for the use of this method of establishing a statistical disparity, as data will show that Blacks comprise a much larger proportion of those arrested for marijuana offenses than their proportion of either the general population of the population of marijuana users in the state.

⁹ The NSDUH revised their survey methodology in 2002, resulting in more completed surveys and improved data collection. The improvement in the validity of the survey instrument resulted in the detection of greater levels of marijuana use compared to surveys in prior years. This increase was due to the change in the instrument, and complicates comparison of pre-2002 data with that obtained with later years.

an average annual prevalence of marijuana use by whites of 11.6%¹⁰. Simply put, the percentage of blacks who use marijuana on an annual basis is slightly higher than the percentage of whites. See Exhibit 1. On average, in terms of annual marijuana use black marijuana use is 14% higher than white marijuana use.

Exhibit 1. Prevalence of Annual Marijuana Use by Race in the United States (1994 – 2015)



Source: National Survey on Drug Use and Health (NSDUH)

NSDUH data for Connecticut for the period 2002 through 2009 reports a similar finding. As noted above, a multi-year period is required to provide a sufficient sample size to produce estimates of annual marijuana use by race at the state level. The data for Connecticut for this period indicates that 12.8% of whites used marijuana on an annual basis, while only 11.2% of blacks used marijuana on an annual basis. Thus, white annual marijuana use was 12.5% higher than black annual marijuana use in Connecticut in this period. (For the entire country, the comparable estimate for 2002 to 2009 is 10.9% for whites and 12.5% for blacks.)

¹⁰ Non-hispanic whites and non-hispanic blacks are the precise categorizations used in this data set.

The NSDUH survey collects data on drug use by those 12 years and older; and prevalence estimates apply to this age group as well. The population estimates for Connecticut, based on this survey data, is out of 2,903,000 people aged 12 and older, there were 351,000 annual marijuana users in the state. Of these, 288,000 were white and 28,000 were black (an additional 25,000 were Hispanic and 10,000 other races and non-hispanic.)

The difference between the prevalence of annual marijuana use in these two groups is described as marginal because it is slight. Black use is 14% higher in the national data over an 11-year period, and white use is 12.5% higher in Connecticut over an 8-year period – but these descriptions are with reference to base figures of approximately 12% (11.6%, 13.2%, 12.8% and 11.2%).

Survey data indicates that the prevalence of marijuana use among blacks and whites is similar, and that differences between the two groups are slight.

Racial Disparities in Marijuana Arrests in Connecticut

The number of marijuana arrests in Connecticut fluctuated between 7,029 in 1994 and 8,518 in 2008 before rising to 9,155 in 2019 and then falling to 6,197 in 2011 and 3,675 in 2012. From 1994 to 2012 marijuana possession arrests generally comprised 80% to 90% of all marijuana arrests (and slightly more than 90% from 2004 to 2007). By 2015 marijuana possession arrests fell to 75% of all marijuana arrests. Exhibit 2 provides figures for total, sales and possession with intent to sell (PWITS)¹¹, and possession marijuana arrests by race for 1994 to 2015.

When rated by population, a clear trend emerges in which the arrest rate for blacks for marijuana offenses is substantially higher than the arrest rate for whites.¹² In 1994 the arrest rate for blacks (707.63) for all marijuana arrests was 4.2 times higher than the arrest rate for whites (169.95), and 4.5 times higher for sales and PWITS, and 4.1 time higher for possession. In 2015, despite a reduction in total arrests for marijuana offenses by 63% the arrest rate for blacks (213.78) for all marijuana arrests remained 3.7 times higher than the arrest rate for whites (57.01), and 3.6 times higher for sales and PWITS, and 3.8 time higher for possession. For the period from 1994 to 2015 on average the annual arrest rate for all marijuana offenses for blacks was 3.7 times higher than for whites, 4.3 times higher for sales, and 3.6 times higher for possession arrests. See Exhibit 3.

Another way to examine this trend is to examine the extent that whites and blacks are represented in the population of those arrested for marijuana offenses, in comparison to their representation (on a percentage basis) in the population. In 1994 whites accounted for 88.8% of the population of Connecticut, but only 70.2% of all marijuana arrests. In 2015 whites accounted for 80.8% of the population but only 64.2% of marijuana arrests. Thus, whites are under-represented in the population of those arrested for marijuana offenses. Blacks accounted for 9.0% of the population of the state in 1994 but comprised 29.5% of those arrested for all marijuana offenses, a ratio of arrest:population

¹¹ The UCR program categorizes drug abuse offenses in terms of “Sales/Manufacturing” and “Possession.” According to John Morton of the FBI, by way of Christine Mertens, a research analyst at the Connecticut Department of Emergency Services and Public Protection (DESPP), an arrest for possession with intent to distribute or sell is classified in UCR data as a sales offense as “that is the true reason for having the drugs.” Personal Communication, July 7, 2017.

¹² Appendix 1 contains the population data used to calculate arrest rates in this report. Population data was obtained from the United States Census Bureau.